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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 JAMES R. ELLARS,

6 Plaintiff

Case No. 2:21-cv-00943-APG-NJK

ORDER

7 v.

8 CLARK COUNTY DETENTION RECORDS,

9 Defendant
10

11 **I. DISCUSSION**

12 On May 14, 2021, Plaintiff submitted a document entitled Request for Restoration of
13 Credits. Docket No. 1-1. Plaintiff has not filed a complaint or an application to proceed *in forma*
14 *pauperis* by a non-inmate or paid the full \$402 filing fee in this matter.

15 Preliminarily, the Court notes that the Request for Restoration of Credits, Docket No. 1-1,
16 is captioned, "In the United States County Court(s), Clark County, Las Vegas." It appears that,
17 because Plaintiff used "United States" in the title of his document, the Clark County Court
18 forwarded the document to be filed in this United States District Court. Docket No. 1-1, page 3.
19 However, given the nature of the document, it seems quite likely that Plaintiff did not intend to
20 file the document with this Court. In the event Plaintiff intended to file his Request for Restoration
21 of Credits with the Clark County Court, Plaintiff should further pursue his action with that court
22 and be certain to identify the correct court on any documents filed with that court. However, if
23 Plaintiff's intention was to file a case in this United States District Court, Plaintiff must file a
24 complaint or petition with this court as well as either pay the full \$402 filing fee or file an
25 application to proceed *in forma pauperis* by a non-inmate.

26 **Complaint or Petition**

27 Under Federal Rule of Civil Procedure 3, "[a] civil action is commenced by filing a
28 complaint with the court." Fed. R. Civ. P. 3. The Court will send to Plaintiff the approved form

1 for filing a 42 U.S.C. § 1983 complaint and instructions for the same. In the alternative, if Plaintiff
2 is attempting to file a *federal* petition for a writ of habeas corpus and believes that it is appropriate
3 to file such a petition with this Court, Plaintiff should file a petition under 28 U.S.C. § 2254 for a
4 writ of habeas corpus.

5 **Fee or Application to Proceed in forma pauperis**

6 Under 28 U.S.C. § 1915 and Local Rule LSR 1-1, a non- inmate seeking to begin a civil
7 action in this Court who cannot afford to pay the filing fee may apply to proceed *in forma pauperis*
8 in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma*
9 *pauperis* status, the non-inmate must submit a completed application to proceed in district court
10 without prepaying fees or costs showing that he qualified to proceed without payment of the fee.
11 If the plaintiff can afford to pay the fee, he must do so.

12 The Court will grant Plaintiff an opportunity to file a complaint or petition and to file an
13 application to proceed *in forma pauperis* for a non-inmate or pay the full \$402 filing fee for this
14 action, on or before **June 21, 2021**. Absent unusual circumstances, the Court will not grant any
15 extensions of time. If Plaintiff does not file a complaint or petition and does not either file an
16 application to proceed *in forma pauperis* for a non-inmate or pay the full \$402 filing fee on or
17 before **June 21, 2021**, this case will be subject to dismissal without prejudice.

18 A dismissal without prejudice means Plaintiff does not give up the right to refile the case
19 with the Court, under a new case number, at a later date and does not give up the right to file the
20 case in the appropriate court.

21 **II. CONCLUSION**

22 For the foregoing reasons, IT IS ORDERED that, if Plaintiff wishes to proceed in this
23 Court, he must submit a complaint or petition to this Court on or before **June 21, 2021**.

24 IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the approved
25 form for filing a 42 U.S.C. § 1983 complaint and instructions for the same as well as the form for
26 filing a 28 U.S.C. § 2254 habeas petition. The Clerk of the Court also will send Plaintiff a copy
27 of his Request for Restoration of Credits. Docket No. 1-1.

1 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the approved
2 form application to proceed *in forma pauperis* by a non-inmate, as well as the document entitled
3 information and instructions for filing an *in forma pauperis* application.

4 IT IS FURTHER ORDERED that, on or before **June 21, 2021**, Plaintiff will either pay the
5 full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52 administrative
6 fee) or file an application to proceed *in forma pauperis* by a non-inmate.

7 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint or petition and
8 either a fully complete application to proceed *in forma pauperis* by a non-inmate or pay the full
9 \$402 filing fee for a civil action on or before **June 21, 2021**, this case will be subject to dismissal
10 without prejudice.

11 DATED: May 20, 2021.

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14 _____
NANCY J. KOPPE
UNITED STATES MAGISTRATE JUDGE